

1 Mark A. Pals, P.C. (*pro hac vice*)
mpals@kirkland.com
2 Marcus E. Sernel (*pro hac vice*)
msernel@kirkland.com
3 KIRKLAND & ELLIS LLP
300 North LaSalle
4 Chicago, IL 60654
(312)862-2000 (o); (312)862-2200 (f)

5 Daralyn J. Durie (SBN 169825)
ddurie@durietangri.com
6 Mark Lemley (SBN 155830)
mlemley@durietangri.com
7 DURIE TANGRI LLP
217 Leidesdorff Street
8 San Francisco, CA 94111
(415)362-6666 (o); (415)236-6300 (f)

9 Attorneys for GENENTECH, INC.

David I. Gindler (SBN 117824)
dgindler@irell.com
Joseph M. Lipner (SBN 155735)
jlipner@irell.com
IRELL & MANELLA, LLP
1800 Avenue of the Stars
Los Angeles, CA 90067
(310)277-1010 (o); (310)203-7199 (f)

Attorneys for CITY OF HOPE

2010 JUL 27 PM 4:08
U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

Adged Prop. Order

FILED

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**

14 CENTOCOR ORTHO BIOTECH, INC.,

15 Plaintiff,

16 v.

17 GENENTECH, INC. AND CITY OF
HOPE,

18 Defendants.

19 GENENTECH, INC. AND CITY OF
HOPE,

20 Counter-Plaintiffs

21 v.

22 CENTOCOR ORTHO BIOTECH, INC.,

23 Counter-Defendant

24 AND

25 GLOBAL PHARMACEUTICAL
SUPPLY GROUP, LLC, CENTOCOR
BIOLOGICS, LLC, AND JOM
PHARMACEUTICAL SERVICES, INC.,

26 Third-party Defendants.

Case No. CV 08-03573 MRP (CTx)

The Honorable Mariana R. Pfaelzer

**APPLICATION TO FILE
DOCUMENTS UNDER SEAL IN
SUPPORT OF GENENTECH,
INC.'S AND CITY OF HOPE'S
CROSS MOTION FOR
SUMMARY ADJUDICATION
AND OPPOSITION TO
CENTOCOR ORTHO BIOTECH,
INC.'S MOTION NOS. 1-6**

Date: August 17, 2010

Time: TBD

Ctrm: 12

Judge: Honorable Mariana R. Pfaelzer

ORIGINAL

1 PLEASE TAKE NOTICE that pursuant to Local Rule 79-5.1, Defendants and
2 Counter-Plaintiffs Genentech, Inc. and City of Hope seek leave to file the following
3 documents under seal:

4 1. Opposition By Genentech, Inc. and City of Hope To Centocor Ortho
5 Biotech, Inc.'s and Its Counter-Defendant Affiliates' Motion for Summary Judgment
6 of No Willful Infringement (Motion No. 1).

7 2. Statement of Genuine Issues in Support of Genentech, Inc.'s and City of
8 Hope's Opposition to Centocor Ortho Biotech, Inc.'s Motion for Summary Judgment
9 of No Willful Infringement (Motion No. 1).

10 3. Opposition of Genentech, Inc. & City of Hope to Centocor Ortho Biotech,
11 Inc.'s Motion for Construction of Claim Term "Immunoglobulin" (Motion No. 2).

12 4. Cross Motion for Summary Judgment Adjudication and Opposition of
13 Genentech, Inc. & City of Hope to Centocor Ortho Biotech, Inc.'s Motion for
14 Summary Judgment of No Infringement of Claim 33 (Motion No. 3).

15 5. Statement of Genuine Issues in Support of Genentech, Inc.'s and City of
16 Hope's Opposition to Centocor Ortho Biotech, Inc.'s Motion for Summary Judgment
17 of No Infringement of Claim 33 (Motion No. 3).

18 6. Statement of Uncontroverted Facts and Conclusions of Law in Support of
19 Genentech, Inc.'s and City of Hope's Cross Motion for Summary Adjudication.

20 7. Genentech, Inc. and City of Hope's Opposition to Centocor's Motion for
21 Summary Judgment of Invalidity of Claim 33 for Failure to Comply with 35 U.S.C. §
22 112 (Motion No. 4).

23 8. Response of Defendants Genentech, Inc. and City of Hope to Statement of
24 Undisputed Facts and Conclusions of Law In Support Of Centocor's Motion for
25 Summary Judgment of Invalidity of Claim 33 for Failure to Comply with 35 U.S.C. §
26 112 (Motion No. 4).

1 9. Opposition by Genentech, Inc. and City of Hope to Centocor Ortho Biotech,
2 Inc.'s and Its Counter-Defendant Affiliates' Motion for Summary Judgment of
3 Anticipation (Motion No. 5).

4 10. Statement of Genuine Issues In Support of Genentech, Inc.'s and City of
5 Hope's Opposition to Centocor Ortho Biotech, Inc.'s Motion for Summary Judgment
6 of Anticipation (Motion No. 5).

7 11. Genentech, Inc. and City of Hope's Opposition to Centocor Inc.'s Motion
8 for Summary Judgment That Claim 33 Is Invalid for Failure to Disclose The Best
9 Mode (Motion No. 6).

10 12. Response of Defendants Genentech, Inc. and City of Hope to Statement of
11 Undisputed Facts and Conclusions of Law In Support Of Centocor's Motion for
12 Summary Judgment That Claim 33 Is Invalid for Failure to Disclose the Best Mode
13 (Motion No. 6).

14 13. Declaration of Mark A. Pals In Support of Genentech, Inc.'s and City of
15 Hope's Cross Motion for Summary Adjudication and Opposition to Centocor Ortho
16 Biotech, Inc.'s Motions for Summary Judgment and Claim Construction (Nos. 1-6)
17 ("Pals Declaration").

18 14. Exhibit B to Pals Declaration: Genentech Deposition Exhibit 11, a 1998
19 Agreement between Celltech and Centocor.

20 15. Exhibit C to Pals Declaration: 2001 Agreement between Genentech and
21 Celltech, Bates labeled GNE-MED-00487 - GNE-MED-00518.

22 16. Exhibit D to Pals Declaration: 2008 Agreement between UCB Pharma S.A.,
23 UCB Celltech, and Centocor, Bates labeled CENT00027232 - CENT00027253,
24 CENT00027167, and CENT00027228.

25 17. Exhibit E to Pals Declaration: 2008 Agreement between UCB Pharma S.A.,
26 UCB Celltech, and Centocor, Bates labeled CENT00027164 - CENT00027166,
27 CENT00027163, and CENT00027227.

1 18. Exhibit F to Pals Declaration: Genentech Deposition Exhibit 56, a
2 September 30, 2008 letter from Centocor to UCB Celltech, Bates labeled
3 CENT00026964.

4 19. Exhibit G to Pals Declaration: Genentech Deposition Exhibit 57, a
5 September 30, 2008 letter from UCB Celltech to Centocor, Bates labeled
6 CENT00026965.

7 20. Exhibit H to Pals Declaration: Genentech Deposition Exhibit 58, a 2008
8 Agreement between UCB Pharma S.A., UCB Celltech, and Centocor, Bates labeled
9 CENT00026966 - CENT00026968.

10 21. Exhibit I to Pals Declaration: June 6, 2008 letter from Johnson and Johnson
11 to UCB Celltech, Bates labeled CENT00027191 - CENT00027192.

12 22. Exhibit J to Pals Declaration: April 27, 2010 deposition of Joseph Wolk.

13 23. Exhibit K to Pals Declaration: April 21, 2010 deposition of Robert
14 Bazemore, Jr.

15 24. Exhibit L to Pals Declaration: April 29, 2010 Letter from J. Lipner to M.
16 Pearson.

17 25. Exhibit M to Pals Declaration: A series of emails between counsel for City
18 of Hope and counsel for Centocor with a date range from May 5, 2010 to June 9,
19 2010.

20 26. Exhibit O to Pals Declaration: August 12, 2009 deposition of Kenneth J.
21 Dow, Esq.

22 27. Exhibit P to Pals Declaration: June 11, 2010 deposition of Thomas
23 Randolph Wall, Ph.D.

24 28. Exhibit Q to Pals Declaration: June 25, 2010 deposition of Eugene C.
25 Rzucidlo.

26 29. Exhibit R to Pals Declaration: June 24, 2010 deposition of Arne Skerra,
27 Ph.D.

28

1 30. Exhibit W to Pals Declaration: June 1, 2010 deposition of Jeffrey Kushan,
2 Esq.

3 31. Exhibit Z to Pals Declaration: May 14, 2010 Expert Report of Bruce J.
4 Dolnick, Ph.D.

5 32. Exhibit AA to Pals Declaration: June 4, 2010 Expert Report of Matthew P.
6 Scott, Ph.D.

7 33. Exhibit BB to Pals Declaration: June 4, 2010 Expert Report of Carlo M.
8 Croce, M.D., filed under seal.

9 34. Exhibits EE to Pals Declaration: Genentech Deposition Exhibit 65, a
10 November 28, 2007 email from D. McGinn of Centocor to T. Schwartz of Genentech,
11 Bates labeled GENE-CEN 015118 - GENE-CEN 015121.

12 35. Exhibit FF to Pals Declaration: December 10, 2009 letter from M. Sernel to
13 A. Goranin.

14 36. Exhibit GG to Pals Declaration: Centocor's Supplemental Responses to
15 Genentech's Second Set of Interrogatories.

16 37. Exhibit HH to Pals Declaration: June 18, 2010 deposition of Bruce
17 Dolnick, Ph.D.

18 38. Exhibit II to Pals Declaration: June 4, 2010 Expert Report of Bruce J.
19 Dolnick, Ph.D.

20 39. Exhibit JJ to Pals Declaration: Genentech, Inc.'s Opening Brief Regarding
21 Claim Construction from the *MedImmune* litigation, dated December 22, 2003.

22 40. Exhibit LL to Pals Declaration: June 4, 2010 Expert Report of Robert B.
23 Freedman, D. Phil.

24 41. Exhibit MM to Pals Declaration: June 22, 2010 deposition of Robert B.
25 Freedman, D. Phil.

26 42. Exhibit NN to Pals Declaration: January 28, 2010 deposition of Ronald
27 Wetzel, Ph.D.

28

1 43. Exhibit QQ to Pals Declaration: Centocor's Response to Genentech's
2 Second Set of Interrogatories, dated April 15, 2009.

3 44. Exhibit RR to Pals Declaration: July 8, 2010 deposition of Carlo M. Croce,
4 M.D.

5 45. Exhibit SS to Pals Declaration: June 15, 2010 deposition of Matthew P.
6 Scott, Ph.D.

7 46. Exhibit TT to Pals Declaration: April 30, 2010 deposition of L. Jeanne
8 Perry, Ph.D.

9 47. Exhibit WW to Pals Declaration: Exhibit No. 2 from the June 24, 2010
10 Deposition of Arne Skerra, Ph.D.

11 The Documents sought to be filed under seal contain confidential information
12 pursuant to the Protective Order. Therefore, Genentech and City of Hope seek a Court
13 Order to seal these documents.

14 For the foregoing reasons, Genentech and City of Hope respectfully request that
15 the Court grant this application and order that the foregoing documents be filed under
16 seal.

17 Genentech and City of Hope are filing, concurrent with this Application, a
18 proposed order sealing the above-referenced documents.

1 Dated: July 27, 2010

/s/ Mark A. Pals
Mark A. Pals, P.C. (*pro hac vice*)
mpals@kirkland.com
Marcus E. Sernel (*pro hac vice*)
msernel@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle Street
Chicago, IL 60654
Telephone: (312)862-2000
Facsimile: (312)862-2200

Daralyn J. Durie (SBN 169825)
ddurie@durietangri.com
Mark Lemley (SBN 155830)
mlemley@durietangri.com
DURIE TANGRI LLP
217 Leidesdorff Street
San Francisco, CA 94111
Telephone: (415)362-6666
Facsimile: (415)236-6300

*Attorneys for Defendant/Counter-
Plaintiff Genentech, Inc.*

/s/ David I. Gindler
David I. Gindler (SBN 117824)
dgindler@irell.com
Joseph M. Lipner (SBN 155735)
jlipner@irell.com
IRELL & MANELLA, LLP
1800 Avenue of the Stars
Los Angeles, CA 90067
Telephone: (310)277-1010
Facsimile: (310)203-7199

*Attorneys for Defendant/Counter-
Plaintiff City of Hope*